

Application No.: 10/711,464
Amendment Dated: December 14, 2005
Reply to Office Action of: June 14, 2005

Attorney Docket No.: 28757.00001
Customer No.: 35161

REMARKS/ARGUMENTS

This Amendment is in response to the Non-Final Office Action mailed on June 14, 2005, for the present application, which has been reviewed. Considered together with the following remarks, the arguments below and request for reconsideration are believed sufficient to place the application into condition for allowance. No new matter has been added to the application. Applicant's express appreciation for the thoughtful examination by the Examiner.

In the claims, claims 1, 9, 11, and 20 are presently amended, while claims 2, 7, 8, and 12 are cancelled. Claims 1, 11 have been amended to include limitations found in the cancelled claims.

The present invention provides a wearable body support system and particularly to a wearable body support system configured for attachment to a person that provides cushioning and support to the user during events such as hunting, fishing, boating, rafting, spectator sports and the like.

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Rejection of Claims 1, 3, 5 and 6 Under 35 U.S.C. §102 Should Be Withdrawn

The present Office Action rejects claims 1, 3, 5, and 6 under 35 U.S.C. section 102(b) as being anticipated by Willifords et al. (U.S. 5,652,957). Applicant's respectfully traverse this rejection and request favorable reconsideration and withdrawal of this rejection. Further, Applicant's submit this rejection is rendered moot by the foregoing amendments and the following comments.

The standard for a rejection under 35 U.S.C. §102(b) is established in MPEP §2131. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. If an independent claim is allowable under 35 U.S.C. §102, then any claim depending therefrom is also allowable.

In order to further the prosecution of this application, and without acquiescing to the Examiner's rejection and while reserving the right to prosecute the original claims (or similar claims) in the future, Applicant's have amended claim 1, from which claims 3, 5, and 6 depend.

The prior art cited does not teach a wearable body support system as disclosed in the specification to provide cushioning and comfort to a user. In particular, Williford teaches anti-skid garment made from coarse textured anti-skid materials. Nevertheless, claims 1 and 11 have been amended to include the limitation of the upper torso assembly having a buoyant padding element.

In light of the foregoing, Applicant therefore believes claim 1 and those claims that depend from claim 1 are in condition for allowance, and respectfully requests such allowance.

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Rejection of Claims 1-3, 5-7, 20-22 and 24 Under 35 U.S.C. §102 Should Be

Withdrawn

The present Office Action also rejects claims 1-3, 5-7, 20-22 and 24 under 35 U.S.C. section 102(b) as being anticipated by Howland et al. (U.S. App. No. 2001/0029621). Howland teaches a penetration resistant garment having a plurality of penetration resistant panels 30 (para. [0042] lines 4-5). The optional padded backing is merely to protect a user from its rigid surfaces. The intended use of this garment is to protect a user from trauma associated with power-washers and is therefore primarily designed for use on the front of a user.

In contrast the present invention is configured and claimed to provide a cushioning effect to a seated, kneeling, or braced user. Applicant respectfully disagrees with the Present Action's statement that Howland discloses a wearable body support system having a "first elongated cushion assembly (92) and a second elongated cushion assembly (90). Again the assemblies are penetration resistant panels. Optionally, "each panel may include a backing." (para. [0059] lines 1-2). As such, the backing would not exist or even be needed if there were no rigid panels. Thus, based on the foregoing and the amendment to claim 1, Applicant respectfully requests removal of this rejection and those claims that depend from it.

Regarding the rejection of claims 2 and 20, Applicant refers to his response stated above and additionally adds that Howland's chest panel 40 is clearly designed for protection of a user's chest. The present invention in contrast is designed specifically to provide a cushioning effect to a user's back. This limitation is stated in claim 2, and claim 20 as amended.

Regarding the rejection of claims 3 and 21, Applicant refers to his response stated above and additionally adds that Howland's elements do not teach a leg support 100 as stated in the present action. In fact, element 100 actually refers to a lower knee panel 100. Further,

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claims 3 and 21 depend from claims which Applicant believes, as amended, are in condition for allowance.

Regarding the rejection of claims 5 and 24, Applicant refers to his response stated above and additionally adds that Howland's element 104 is described as one or more straps. Despite this discrepancy, Howland element 96 describes a knee section, which, like the response stated above, describes a rigid panel having an optional backing to add comfort from the panel itself. Further, claims 5 and 24 depend from claims which Applicant believes, as amended, are in condition for allowance.

Regarding the rejection of claims 6, Applicant refers to his response stated above and additionally adds that claim 6 depend from a claim which Applicant believes, as amended, is in condition for allowance.

Regarding the rejection of claims 7 and 22, Applicant refers to his response stated above and additionally adds that claims 7 and 22 depend from claims which Applicant believes, as amended, are in condition for allowance.

In light of the foregoing, Applicant therefore believes claims 1-3, 5-7, 20-22 and 24 those claims that depend from claim 1 are in condition for allowance, and respectfully requests such allowance.

Rejection of Claims 4 and 11-16 Under 35 U.S.C. § 103 Should Be Withdrawn

The present action rejects claims 4 and 11-16 as being unpatentable over Howland in view of Billingsley (U.S. 1,586,235) under 35 U.S.C. section 103(a). Applicant respectfully traverses this rejection and requests favorable reconsideration and withdrawal of this rejection. Further, Applicant's submit this rejection is rendered moot by the foregoing amendments and the following comments.

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First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings for a vaccine with the claimed specific properties. Second, there must be some reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2142.

Regarding claims 4 and 11, Billingsley teaches an unrelated art of protecting trousers from excessive wear and soiling. There is no suggestion in either patent to combine the references. Further, Applicant submits this rejection is rendered moot by the foregoing amendments to these claims.

Regarding claims 12-16, Applicant again restates that Billingsley teaches an unrelated art of protecting trousers from excessive wear and soiling. There is no suggestion in either patent to combine the references. Further, Applicant submits this rejection is rendered moot by the foregoing amendments to these claims.

In light of the foregoing, Applicant therefore believes claims 4 and 11-16 are in condition for allowance, and respectfully requests such allowance.

Rejection of Claims 8-10, 17-19 and 23 Under 35 USC § 103 Should Be Withdrawn

The present action rejects claims 8-10, 17-19 and 23 as being unpatentable over Howland in view of Courtney (U.S. Pat. App. No. 2004/0157514) under 35 U.S.C. section 103(a). Applicant respectfully traverses this rejection and requests favorable reconsideration

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and withdrawal of this rejection. Further, Applicant's submit this rejection is rendered moot by the foregoing amendments and the following comments.

Regarding claim 8 (now cancelled and currently amended claim 1), as stated above, Howland teaches a penetration resistant garment to protect a user from injury from a power washer. It is not intended for use as body armor or for combat. In fact neither the "body armor" nor the "combat" terms are even mentioned in the patent. Courtney teaches a floatation device that is reconfigurable and which may optionally and peripherally include body armor. There is no suggestion in either reference to combine a flotation device with a power washer penetration resistant panel. In contrast, the present invention is an unrelated technology to both references. The present invention is a comfort aid for a user and for water applications a buoyant material is added to eliminate the need for the user to wear a separate personal flotation device. The present invention does not claim any configuration suitable for combat, body armor or protection from injury from power washers.

Regarding claim 9, Applicant states this rejection is rendered moot by the foregoing amendments and the following comments. Also, as stated above, there is no suggestion in either patent to combine the references. Howland teaches a protective suit against injury from power washing and Courtney teaches a variably configured inflatable personal flotation device.

Regarding claim 10, Applicant states that this rejection is rendered moot by the foregoing amendments and the comments above.

Regarding claims 17-19, Applicant again restates that Howland and Courtney are unrelated technologies. There is no suggestion in either patent to combine the references. Howland teaches a protective suit against injury from power washing and Courtney teaches a variably configured inflatable personal flotation device. Further, Applicant submits this rejection is rendered moot by the foregoing amendments to these claims.

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In light of the foregoing, Applicant therefore believes claims 8-10, 17-19 and 23 are in condition for allowance, and respectfully request such allowance.

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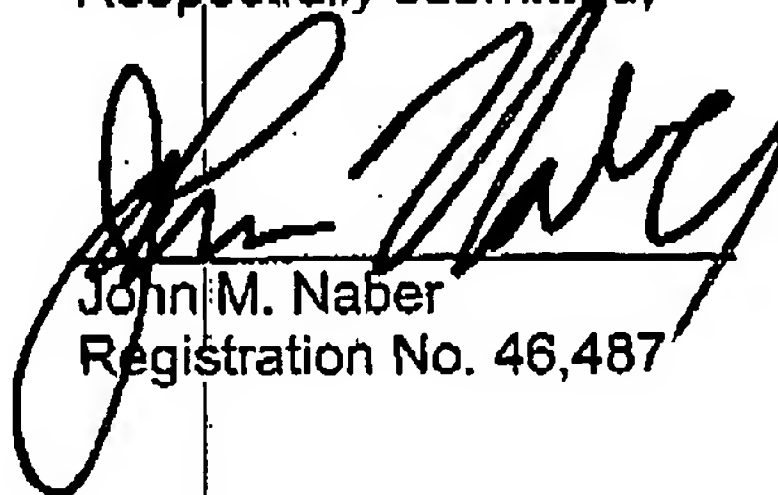
CONCLUSION

Examiner noted that the prior art of record was considered pertinent to Applicant's disclosure. Applicant's have reviewed the prior art of record and submit it does not adversely bear on the patentability of the pending claims.

In light of the foregoing, Applicant's respectfully submit they have addressed each and every item presented by the Examiner in this Office Action. Favorable reconsideration of all of the claims as amended is earnestly solicited. Applicant's submit that the present application, with the foregoing claim and specification amendments and accompanying remarks, is in a condition for allowance and respectfully request such allowance.

In the event any further matters requiring attention are noted by Examiner or in the event that prosecution of this application can otherwise be advanced thereby, a telephone call to Applicant's undersigned representative at the number shown below is invited.

Respectfully submitted,



John M. Naber
Registration No. 46,487

DICKINSON WRIGHT PLLC
1901 L Street NW, Suite 800
Washington D.C. 20036
Telephone: (202) 457-0160
Facsimile: (202) 659-1559
Date: December 14, 2005

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